

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

|                               |   |                         |
|-------------------------------|---|-------------------------|
| KRAFT FOODS GLOBAL, INC., THE | ) |                         |
| KELLOGG COMPANY, GENERAL      | ) |                         |
| MILLS, INC., and NESTLÉ USA,  | ) |                         |
| INC.,                         | ) |                         |
|                               | ) | No. 1:11-cv-08808       |
| Plaintiffs,                   | ) |                         |
|                               | ) | Judge Charles R. Norgle |
| v.                            | ) |                         |
|                               | ) |                         |
| UNITED EGG PRODUCERS, INC.,   | ) |                         |
| UNITED STATES EGG             | ) |                         |
| MARKETERS, INC., CAL-MAINE    | ) |                         |
| FOODS, INC., and ROSE ACRE    | ) |                         |
| FARMS, INC.                   | ) |                         |
|                               | ) |                         |
| Defendants.                   | ) |                         |

**JOINT MOTION FOR TEMPORARY RELIEF FROM CERTAIN DATES  
PENDING COURT'S RESETTING TRIAL DATE**

On September 22, 2022, the Court entered an order directing the parties to submit, by October 6, an agreed date for trial, after the Court vacated the previously-set trial date of October 24, 2022 (the "Court's Order"). (Dkt. 217.) In conformance with the Court's Order, the Parties are meeting and conferring in an effort to provide a definitive trial date proposal(s) to the Court by October 6. In the interim, the Parties respectfully request that the Court provide the Parties with temporary relief from certain pre-set dates pending the Court's resetting the Trial Date. In further support thereof, the Parties state the following:

1. On April 21, 2022, the Parties filed a Joint Motion to Amend Pretrial Schedule and Set Trial Dates, in which they proposed a trial date and pretrial

schedule tied to the trial date. (Dkt. 137.) On May 2, 2022, the Court adopted the Parties' proposed schedule, setting an October 24, 2022 trial date and corresponding pretrial schedule. (Dkt. 143.) In particular, the Court set the following dates:

| <b>Pretrial Order Scheduling</b>  |  |
|---|--|
| Parties exchange proposed witness and exhibit lists, as well as deposition designations             | July 22, 2022 (approx. 95 days before trial) |
| Parties exchange objections to witness and exhibit lists, and objections to deposition designations | Aug. 5, 2022 (approx. 80 days before trial)  |
| Parties exchange counter-designations   | Aug. 5, 2022 (approx. 80 days before trial)  |
| Parties exchange objections to counter-designations   | Aug. 16, 2022 (approx. 70 days before trial) |
| Parties exchange drafts of pretrial order   | Sep. 14, 2022 (approx. 40 days before trial) |
| Parties exchange proposed jury instructions, verdict form, and proposed statement of the case       | Sep. 14, 2022 (approx. 40 days before trial) |
| Parties file pretrial order and proposed jury instructions  | Sep. 28, 2022 (approx. 25 days before trial) |
| <b>Motions <i>in Limine</i> Scheduling</b>  |  |
| Plaintiffs file <i>Santiago</i> proffer; Parties file motions <i>in limine</i>                      | Aug. 26, 2022 (approx. 60 days before trial) |
| Parties file responses to <i>Santiago</i> proffer and motions <i>in limine</i>                      | Sep. 16, 2022 (approx. 40 days before trial) |
| Oral argument on pretrial order   | Sep. 29, 2022 (25 days before trial)         |

Many of these deadlines have passed, and the Parties have exchanged and filed the required documents accordingly, but the deadline for the Parties to file the pretrial order and proposed jury instructions on September 28, 2022 remains.

2. In addition, on August 25, 2022, the Court entered a schedule for Defendants' Motion to Bifurcate, which included a reply brief due on September 29, 2022. (Dkt. 154.)

3. On September 20, 2022, the Court rescheduled the oral argument on the pretrial order and motions *in limine* from September 29, 2022, to October 6, 2022 at 10:30 a.m. (Dkt. 212.)

4. On September 20, 2022, the Court also scheduled a status hearing on October 24, 2022, at 10:00 a.m. to reset the jury trial. (Dkt. 213.)

5. On September 21, 2022, the Parties filed a Joint Motion to Advance Hearing and Reset Trial Date. (Dkt. 216.). The Court's Order denied this joint motion and instead directed the Parties to submit an agreed date for trial by October 6, 2022. (Dkt. 217.)

6. In light of the Court's Order, the Parties are in the process of conferring about potential trial dates in 2023.<sup>1</sup>

7. Pending the Court's entry of a new trial date, the Parties seek temporary relief from the aforementioned deadlines. In the interest of conserving the Parties' and the Court's resources, the Parties agree that it would be more efficient to reset the currently-pending pretrial deadlines to correspond to the to-be-determined new trial date.

8. When the Parties propose trial dates on October 6, similar to the process successfully employed previously in this matter, they will also propose a

---

<sup>1</sup> Given the Court's resetting the October 24th trial date, the anticipated 5-week trial, the parties' understanding of the lead time necessary to reserve certain courtrooms for trials in the Covid-era, the impending holidays in November and December, and the availability of counsel and witnesses, the parties do not believe that a 2022 trial date will be feasible and anticipate proposing 2023 trial dates for the Court's consideration.

pretrial schedule with new dates that are tied to the proposed trial date for the Court's consideration.

In light of the foregoing, the Parties respectfully request that the Court hold in abeyance all deadlines—including the September 28, 2022 deadline for the submission of the Pretrial Order, the September 29, 2022 deadline for Defendants' reply in support of their Motion to Bifurcate, the October 6, 2022 telephonic oral argument on Pretrial Order, and the October 24, 2022 status hearing—until after the Parties have submitted a new proposed trial date and pretrial order and the Court has reset the trial date and pretrial schedule.

September 27, 2022

/s/ Brandon D. Fox

James T. Malysiak  
Terrence J. Truax  
Joel T. Pelz  
Angela M. Allen  
JENNER & BLOCK LLP  
353 N. Clark Street Chicago, IL 60654  
Tel: (312) 222-9350  
Fax: (312) 527-0484  
Email: jmalysiak@jenner.com  
ttruax@jenner.com  
jpelz@jenner.com  
aallen@jenner.com

Brandon D. Fox  
Amy M. Gallegos (*admitted pro hac vice*)  
JENNER & BLOCK LLP  
515 South Flower  
Los Angeles, CA 90071  
Tel: (213) 239-5100  
Fax: (213) 239-5199

Respectfully submitted,

/s/ Patrick M. Collins

Patrick M. Collins (pcollins@kslaw.com)  
Livia M. Kiser (lkiser@kslaw.com)  
Patrick M. Otlewski  
(potlewski@kslaw.com)  
Abigail Hoverman Terry  
(aterry@kslaw.com)  
KING & SPALDING LLP  
110 North Wacker Drive, 38th Floor  
Chicago, IL 60606  
Tel: (312) 995-6333

Lohr Beck (lohr.beck@kslaw.com)  
(pro hac vice)  
Andrew Chinsky (achinsky@kslaw.com)  
KING & SPALDING LLP  
1180 Peachtree Street, NE, Suite 1600  
Atlanta, GA 30309  
Tel: (404) 572-2812

Brian E. Robison  
(brian@brownfoxlaw.com)

Email: bfox@jenner.com  
agallegos@jenner.com

***Counsel for Plaintiffs Kraft Foods  
Global, Inc., General Mills, Inc.,  
Nestle USA, Inc. and The Kellogg  
Company***

(pro hac vice)  
BROWN FOX PLLC  
6303 Cowboys Way, Suite 450  
Frisco, TX 75034  
Tel: (972) 707-2809

***Counsel for Defendant Cal-Maine  
Foods, Inc.***

/s/ Robin P. Sumner

Robin P. Sumner  
(robin.sumner@troutman.com)  
Kaitlin L. Meola  
(kaitlin.meola@troutman.com)  
TROUTMAN PEPPER HAMILTON  
SANDERS LLP  
3000 Two Logan Square, 18th and Arch  
Streets  
Philadelphia, PA 19103-2799  
Tel: (215) 981-4000

Whitney R. Redding  
(whitney.redding@troutman.com)  
TROUTMAN PEPPER HAMILTON  
SANDERS LLP  
Union Trust Building  
501 Grant Street, Suite 300  
Pittsburgh, PA 15219-4429  
Tel: (412) 454-5085

Robert E. Browne, Jr.  
(robert.browne@troutman.com)  
TROUTMAN PEPPER HAMILTON  
SANDERS LLP  
227 West Monroe Street, Suite 3900  
Chicago, IL 60606  
Tel: (312) 759-1923

***Counsel for Defendants United Egg  
Producers, Inc. & United States Egg  
Marketers, Inc.***

/s/ Donald M. Barnes

Donald M. Barnes  
(dbarnes@porterwright.com)  
Jay L. Levine  
(jlevine@porterwright.com)  
PORTER, WRIGHT, MORRIS &  
ARTHUR LLP  
2020 K. Street, N.W., Suite 600  
Washington, D.C. 20006-1110  
Tel: (202) 778-3000

James A. King  
(jking@porterwright.com)  
Allen T. Carter  
(acarter@porterwright.com)  
PORTER, WRIGHT, MORRIS &  
ARTHUR LLP  
41 South High Street, Suite 2900  
Columbus, OH 43215  
Tel: (614) 227-2000

*Counsel for Defendant Rose Acre  
Farms, Inc.*